

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA)	Criminal No. 3:22-MJ-619 (ATB)
)	
v.)	
)	
DUANE HOLLENBECK,)	
)	
Defendant.)	

OFFER OF PROOF

In anticipation of the defendant's scheduled change of plea, the United States submits this Offer of Proof to provide the Court with and advise the defendant concerning the potential maximum penalties, a non-exhaustive list of adverse consequences that may flow from conviction, the elements of the offense, and a factual basis for the defendant's guilty plea. **The government respectfully requests that the Court ask the defendant to acknowledge the accuracy of the factual basis or to state with specificity disagreement with any of the facts described in it.**

1) **Potential Maximum Penalties:** The Court can impose the following maximum penalties for the offense to which the defendant is pleading guilty and may be required to impose mandatory minimum terms of imprisonment, all as set out below:

- a) **Maximum term of imprisonment:** 10 years, pursuant to 26 U.S.C. § 5871.
- b) **Maximum fine:** \$250,000.00, pursuant to 18 U.S.C. § 3571(b)(3)
- c) **Supervised release term:** In addition to imposing any other penalty, the sentencing court may require the defendant to serve a term of supervised release of up to 3 years, to begin after imprisonment. *See* 18 U.S.C. § 3583. A violation of the conditions of supervised release during that time period may result in the defendant being sentenced to an additional term of imprisonment of up to 2 years.

d) **Special Assessment:** The defendant will pay an assessment of \$100 per count of conviction pursuant to 18 U.S.C. § 3013.

e) **Forfeiture:** Pursuant to Title 26, United States Code, Section 5872 and Title 28, United States Code, Section 2461(c), the Court may enter an order directing forfeiture to the United States of the property described in the Forfeiture Allegation in the information or described above, as more fully set out below:

(1) one (1) unserialized AR-15 style rifle with an American Tactical (U.S. Patent No 9068786) upper receiver, an attached black tactical-style flashlight, a V-Life optical aiming device, and a tan-colored collapsible stock, with a barrel length measuring less than 16 inches long.

2) **Other Adverse Consequences:**

- a) Conviction of a felony may result in the loss of civil rights, including, but not limited to, the right to vote and the right to possess firearms.
- b) A felony conviction may adversely affect the defendant's ability to hold certain professional licenses and may impair the defendant's ability to do business with federal, state, and local governments or to receive benefits from such governments.

3) **Elements of Offense:**

- a) The defendant knowingly possessed a "firearm," as defined in the National Firearms Act, 26 U.S.C. § 5845;
- b) The National Firearms Act firearm possessed by the defendant was a short-barreled rifle, as defined in 26 U.S.C. § 5845(a)(3) and 18 U.S.C. § 921(a)(8), specifically, one (1) AR-15 style rifle with a barrel length measuring less than 16 inches long.
- c) The defendant knew the characteristics of the short-barreled rifle; and

- d) The short-barreled rifle was not registered to the defendant in the National Firearms Registration and Transfer Record.

4) Factual Basis for Guilty Plea:

On June 20, 2022, the defendant knowingly possessed an unserialized AR-15 style rifle with an American Tactical (U.S. Patent No 9068786) upper receiver, an attached black tactical-style flashlight, a V-Life optical aiming device, and a tan-colored collapsible stock at his cabin located on Neal Road in Pitcher, New York, Chenango County, knowing that the firearm had a barrel length of less than sixteen inches. The firearm was not registered to him in the National Firearms Registration and Transfer Record.

Respectfully submitted,

CARLA B. FREEDMAN
United States Attorney

/s/ Geoffrey J.L. Brown

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2/27/2023
Date